

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

BRANDON CURRY,)
Plaintiff,)
vs.) Civil Action No. 14-1479
) District Judge Mark R. Hornak
) Chief Magistrate Judge Maureen P. Kelly
)
INDIANA COUNTY JAIL; ISIAH)
PALLET,) Re: ECF Nos. 37, 38
Defendants.)

MEMORANDUM ORDER

Plaintiff Brandon Curry (“Plaintiff”), an inmate presently incarcerated at the State Correctional Institution at Pittsburgh, has presented a civil rights complaint, which he has been granted leave to prosecute without prepayment of costs, against Defendants Indiana County Jail (“ICJ”), where Plaintiff was previously incarcerated, and Isiah Paillet (“Paillet”), a fellow inmate at the ICJ. Plaintiff alleges that the ICJ failed to protect him from Paillet, who allegedly punched Plaintiff in the mouth requiring four stiches in his upper lip. Plaintiff contends that Paillet is not only a federal prisoner and improperly housed with county inmates, but that he has “problems with aggression” which the ICJ was aware of.

Plaintiff has recently submitted two pieces of correspondence to the Clerk of Courts which were filed on August 8, 2015, and August 14, 2014, respectively. ECF Nos. 37, 38. In both letters, Plaintiff complains that Defendant ICJ has not provided him with reports of the incident at issue as Plaintiff has requested and asks the Court to consider providing Plaintiff with counsel to assist him in prosecuting this matter. The Court therefore has construed Plaintiff's correspondence as Motions to Compel and Motions for the Appointment of Counsel. After careful consideration, both Motions will be denied.

Plaintiff's Motion to Compel is denied as premature as a Motion to Dismiss submitted on

behalf of Defendant ICJ is still pending and discovery has not yet been ordered.

Plaintiff's Motions for Appointment of Counsel constitute his second and third application seeking the assistance of counsel. Plaintiff first requested the appointment of counsel on March 14, 2015. ECF No. 14. In a Memorandum Order dated March 27, 2015, Plaintiff's request was denied. ECF No. 16. In his renewed requests for the appointment of counsel it does not appear that Plaintiff is adding any new averments to those set forth in his previous motion or offered the Court any basis for exercising its discretion that has not already been considered.

Therefore, for the reasons set forth in the Court's Order dated March 27, 2015, and because consideration of the factors set forth in Tabron v. Grace, 6 F.3d 147 (3d Cir. 1993), does not warrant the appointment of counsel in this instance, the Court declines to exercise its discretion and request counsel to represent plaintiff in the prosecution of this action. See Parham v. Johnson, 126 F.3d 454, 457 (3d Cir. 1997).

Accordingly, the following Order is entered:

AND NOW, this 20th day of August, 2015, IT IS HEREBY ORDERED that Plaintiff's Motions to Compel and Motions for Appointment of Counsel, ECF Nos. 37 and 38, are DENIED without prejudice.

In accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rule 72.C.2 of the Local Rules of Court, the parties are allowed fourteen (14) days from the date of this Order to file an appeal to the District Judge which includes the basis for objection to this Order. Any appeal is to be submitted to the Clerk of Court, United States District Court, 700 Grant Street, Room 3110, Pittsburgh, PA 15219. Failure to file a timely appeal will constitute a waiver of any appellate rights.

BY THE COURT,

/s/ Maureen P. Kelly
MAUREEN P. KELLY
CHIEF UNITED STATES MAGISTRATE JUDGE

cc: Brandon Curry
LV-2781
SCI Pittsburgh
P.O. Box 99991
Pittsburgh, PA 15233

All counsel of record via CM/ECF